

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**FIRST TENNESSEE BANK
NATIONAL ASSOCIATION,**

Plaintiff,

v.

**SERVICE FOODS, INC., d/b/a
Blue Ribbon Foods, SERVICE
FOODS SOUTHERN DIVISION,
LLC, d/b/a Southern Foods at
Home, H-SON FINANCIAL,
INC., d/b/a Jefferson Financial,
HAROLD T. POUNDERS, and
KEITH KANTOR,**

Defendants.

Case No. 1:15-cv-02940-CAP

JOINT MOTION TO STAY AND ADMINISTRATIVELY CLOSE CASE

COME NOW Plaintiff First Tennessee Bank National Association ("First Tennessee"), Defendant Harold T. Pounders ("Pounders"), and Defendant Keith Kantor ("Kantor"), by and through their respective counsel, and jointly move this Court for the relief described below:

1. On March 6, 2017, this Court entered a *Final Judgment on Counts I Through V of Plaintiff's Complaint, as Amended, and Consent Order Staying*

Further Proceedings [Dkt. No. 328] (the "Contract Judgment"), pursuant to which the Court entered a money judgment for First Tennessee on Counts I through V of the Complaint, as amended.

2. On March 7, 2017, the Court entered an *Order Administratively Closing Case* [Dkt. No. 329], effectively staying the remainder of the case (i.e., adjudication of Counts VI through XIV) through January 1, 2018.

3. After January 1, 2018, pretrial discovery resumed in this case, and the parties participated in mediation on March 26, 2018.

4. The parties were unable to settle this case at mediation. However, the parties' counsel continued settlement discussions afterward, and ultimately reached an agreement to stay this case again on certain specified terms.

5. Based upon the foregoing, the parties hereby request that the Court issue two orders allowing for First Tennessee to complete the depositions of two witnesses, Stu Kagan and Michael Cohen, and then stay this case again, as described in more detail in the proposed orders attached as **Exhibit 1** and **Exhibit 2** hereto.

6. The parties further request a telephone conference or hearing at the Court's earliest opportunity to address any issues the Court may have and proceed with entry of these proposed orders.

SUBMITTED BY:

/s/ Kevin A. Stine

Kevin A. Stine

Georgia Bar No. 682588

kstine@bakerdonelson.com

Kathleen Gilbert Furr

Georgia Bar No. 589008

kfurr@bakerdonelson.com

Baker, Donelson, Bearman,
Caldwell & Berkowitz, P.C.

3414 Peachtree Road, N.E.

Suite 1600, Monarch Plaza

Atlanta, GA 30326

(404) 577-6000

***Counsel for Plaintiff First Tennessee
Bank National Association***

/s/ Brent W. Herrin

[by Kevin Stine with express permission]

Gus H. Small, Jr.

Georgia Bar No. 653200

Brent W. Herrin

Georgia Bar No. 614753

Benjamin S. Klehr

Georgia Bar No. 487931

SMALL HERRIN, LLP

Two Paces West, Suite 200

2727 Paces Ferry Road

Atlanta, GA 30339

(770) 783-1800

gsmall@smallherrin.com

bherrin@smallherrin.com

bklehr@smallherrin.com

***Counsel for Defendant Harold T.
Pounders***

/s/ Todd E. Hatcher

[by Kevin Stine with express permission]

Todd E. Hatcher

Georgia Bar No. 337507

GREGORY DOYLE CALHOUN
& ROGERS, LLC

49 Atlanta Street

Marietta, Georgia 30060

(770) 422-1776

thatcher@gregorydoylefirm.com

Counsel for Defendant Keith Kantor

CERTIFICATE OF SERVICE

This will certify that on July 17, 2018 I served a true copy of the foregoing **Joint Motion to Stay and Administratively Close Case** upon the following persons and entities as set forth below:

Via CM/ECF:

Gus H. Small, Jr.
Brent W. Herrin
Benjamin S. Klehr
Small Herrin, LLP
Two Paces West, Suite 200
2727 Paces Ferry Road
Atlanta, GA 30339

Via CM/ECF:

Todd E. Hatcher, Esq.
H. Scott Gregory, Jr., Esq.
Gregory, Doyle, Calhoun
& Rogers, LLC
49 Atlanta St.
Marietta, GA 30060

/s/ Kevin A. Stine

Kevin A. Stine
Georgia Bar No. 682588
Counsel for Plaintiff

EXHIBIT 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
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CONSENT ORDER

Having read and considered the Joint Motion Staying Proceedings and for Administrative Closure of Case (the "Joint Motion") filed by Plaintiff First Tennessee Bank National Association ("First Tennessee"), Defendant Harold T. Pounders ("Pounders"), and Defendant Keith Kantor ("Kantor") and having found good cause to grant the requested relief, IT IS HEREBY ORDERED as follows:

1. The Joint Motion is GRANTED as set forth below.

2. Effective upon the entry of this Order and subject to paragraphs 3 and 4 below, all further pretrial proceedings in this case are stayed until further order of the Court including, but not limited to, the discovery deadline and any other pretrial deadlines set forth in the Court's previous scheduling order(s).

3. Notwithstanding paragraph 2 above, First Tennessee shall be entitled to complete the depositions of Michael Cohen and Stu Kagan, consistent with the Court's ruling on February 7, 2018 [Dkt. No. 361] granting in part First Tennessee's motions to compel their deposition testimony before this case is administratively closed by the Clerk's Office. In the event further action from the Court is necessary to complete these two depositions, First Tennessee shall also be entitled to bring motions and seek relief from the Court with respect to these depositions before this case is administratively closed by the Clerk's Office.

4. Notwithstanding paragraph 2 above, First Tennessee shall be entitled at all times to conduct post-judgment discovery and otherwise take any and all lawful action to collect on its judgment against Kantor [Dkt. No. 328]. First Tennessee may also file motions and seek additional relief from the Court in aid of its collection of the judgment against Kantor, in its discretion, including but not limited to (a) seeking to re-open this case for the limited purpose of adjudicating post-judgment discovery and collection matters, and (b) seeking subsequent

administrative closure of this case following the adjudication of such post-judgment discovery and collection matters.

5. Upon First Tennessee's completion of the depositions of Michael Cohen and Stu Kagan, the moving parties shall present to the Court a Consent Order administratively closing this case.

6. The Court acknowledges First Tennessee and Pounders have entered into a Settlement and Limited Forbearance Agreement dated as of June 14, 2018, and such Agreement addresses circumstances in which First Tennessee and/or Pounders may seek to reopen this case after it has been administratively closed, in addition to the circumstances addressed in paragraph 4 above. Therefore, the Court orders that First Tennessee and Pounders are also authorized to move to reopen this case in accordance with the terms of such Agreement.

7. In the event this case is reopened, First Tennessee, Pounders, and Kantor agree that the discovery period shall terminate ninety (90) days after the Court orders this case reopened and a proposed joint scheduling order will be submitted to the Court within thirty (30) days after the Court orders this case reopened.

[Signatures on Following Page]

SO ORDERED this ____ day of _____, 2018.

/s/ CHARLES A. PANNELL, JR.
CHARLES A. PANNELL, JR.
United States District Judge

CONSENTED TO BY THE FOLLOWING COUNSEL OF RECORD:

/s/ Kevin A. Stine

Kevin A. Stine
Georgia Bar No. 682588
kstine@bakerdonelson.com
Kathleen Gilbert Furr
Georgia Bar No. 589008
kfurr@bakerdonelson.com
Baker, Donelson, Bearman,
Caldwell & Berkowitz, P.C.
3414 Peachtree Road, N.E.
Suite 1600, Monarch Plaza
Atlanta, GA 30326
(404) 577-6000
Counsel for Plaintiff

/s/ Todd E. Hatcher

[with express permission by Kevin A. Stine]
Todd E. Hatcher
Georgia Bar No. 337507
thatcher@gregorydoylefirm.com
Ga. Bar No. 337507
Gregory Doyle Calhoun & Rogers, LLC
49 Atlanta Street
Marietta, Georgia 30060
(770) 422-1776
Counsel for Defendant Keith Kantor

/s/ Brent W. Herrin

[with express permission by Kevin A. Stine]
Gus H. Small, Jr.
Brent W. Herrin
Benjamin S. Klehr
Small Herrin, LLP
Two Paces West, Suite 200
2727 Paces Ferry Road
Atlanta, GA 30339
gsmall@smallherrin.com
bherrin@smallherrin.com
bklehr@smallherrin.com
Counsel for Defendant
Harold T. Pounders

EXHIBIT 2

**UNITED STATES DISTRICT COURT
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Defendants.

Case No. 1:15-cv-02940-CAP

CONSENT ORDER ADMINISTRATIVELY CLOSING CASE

Pursuant to the Consent Order entered on _____, 2018 [Dkt. No. ____] and upon the request of the moving parties, IT IS HEREBY ORDERED that this case shall be administratively closed by the Clerk's Office. Any of the moving parties may subsequently seek to reopen this case in accordance with the provisions of the aforementioned Consent Order, upon motion and notice to the other parties.

SO ORDERED this ____ day of _____, 2018.

/s/ CHARLES A. PANNELL, JR.
CHARLES A. PANNELL, JR.
United States District Judge

CONSENTED TO BY THE FOLLOWING COUNSEL OF RECORD:

/s/ Kevin A. Stine

Kevin A. Stine
Georgia Bar No. 682588
kstine@bakerdonelson.com
Kathleen Gilbert Furr
Georgia Bar No. 589008
kfurr@bakerdonelson.com
Baker, Donelson, Bearman,
Caldwell & Berkowitz, P.C.
3414 Peachtree Road, N.E.
Suite 1600, Monarch Plaza
Atlanta, GA 30326
(404) 577-6000
Counsel for Plaintiff

/s/ Brent W. Herrin

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Brent W. Herrin
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Small Herrin, LLP
Two Paces West, Suite 200
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Atlanta, GA 30339
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bherrin@smallherrin.com
bklehr@smallherrin.com
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Todd E. Hatcher
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Marietta, Georgia 30060
(770) 422-1776
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